(6)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

WRIT PETITION NO. 4750 OF 2000

Petitioners :

1. Jitendra Pal Singh Ahluwalia, S/o Late Sardar Gurdharshan Singh aged about 29 years, R/o A/16, Housing Board Colony, Bodhghat, Jagdalpur. M.P.
2. Maninder Pal Singh Ahluwalia, S/o Sardar Ajit Singh Ahluwalia, aged 26 years, R/o R/o A/16, Housing Board Colony, Bodhghat, Jagdalpur. M.P.
3. M/s. Star Diesels, a partnership firm, through partner, Jitendra Pal Singh Ahluwalia, S/o Late Sardar Gurdharshan Singh aged about 29 years, R/o A/16, Housing Board Colony, Bodhghat, Jagdalpur. M.P.

-V E R S U S-

spondents :

1. Union of India, through Secretary, Ministry of Petroleum and Natural Gas, New Delhi.
2. Hindustan Petroleum Corporation Limited, though Managing Director, Registered Office-17, Jamshedji Tata Road Mumbai.-400020.
3. Regional Manager, Hindustan Petroleum Corporation Limited, Regional Office, 2nd Floor Madina Manzil, Jail Road, Raipur. M.P.492001.
4. Executive Officer (Sales) Hindustan Petroleum Corporation Limited, Regional Office, IInd Floor Madina Manzil, Jail Road, and Raipur. M.P.492001.
5. Ramjiwan Agarwal, S/o Late. Ganpatrai Agarwal, Geedam Road, Jagdalpur M.P. 494 001
6. Smt. Sushila Heliwal, Wd/o Late. Girdharilal Agrawal, Geedam Road, Jagdalpur M.P.494 001
7. Smt. Sudha Shah, C/o Mr. P.K.Saha, Fariya's Bldg., August Kranti Road, Pedder Road, Mumbai.

Surendra Kumar Khare S. K. Khare 8/18 Oath Commissioner JBP.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(304)

आदेश पत्रक

W.P.No. 4750/2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
6.4.2001	Petitioners by Mr. G.D.Vaswani, Advocate. Respondents-H.P.C.L. by Shri Bhishma Kinger, Advocate. Heard. The petitioners are seeking a direction from this Court to quash the impugned order dt. 19.7.2000 by which the petrol/high-speed diesel dealership agreement dt. 12.12.1974 entered into between the respondents and a firm known as M/s Star Diesels, H.P.C.L. Dealer Jagdalpur having seven partners namely Ramjiwan Agarwal, Smt. Sushila Heliwal, Mrs. Sudha Shah, Smt. Chandrika Chitalia, Vijay Chitalia, Shantilal Chitalia and Chhunilal Chitalia, has been cancelled. At the outset it may be stated that the petitioners are not some of these seven partners whose names have been recorded above. For some time it appears that this business was carried out by the petitioners in the name of the firm. However on coming to know that the petitioners had not become partners of the said firm with consent of the respondents-H.P.C.L. as contemplated in Clause-22 of the agreement, the respondents decided to terminate the said agreement, hence this petition. Though, Mr. Vaswani has urged straneously that	

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आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the petitioners are not at ~~forged~~ fault in asmuch as they have already had correspondence with the respondents as regards the consent to be given to the petitioners recognizing them as partners of the firm ~~in asmuch~~ because as the respondents simply sat over the matter. Mr. Kinger representing the H.P.C.L. submits that there must be express consent given to the writ petitioner and in absence of any express consent the petitioners have no locus standai to claim that they are partners of the said firm. It is also further submitted by Mr. Kinger that in the nature of the present litigation certain disputed facts will have to be entered into and as such it will not be proper for this Court sitting as a writ Court to entertain this matter in exercise of the extra ordinary jurisdiction under Article 226 of the Constitution of India.

Obviously the petitioners are not some of the seven partners whose names figured in the agreement dt. 12.12.74. It is also obvious that there is nothing to show that the petitioners became partners by express consent of the H.P.C.L.. Clause-32 of the agreement states that the dealer agrees not to change the Constitution of Dealer firm nor dissolve the partnership nor admit new member/s as partner/s or allow any partner/s to withdraw from the partnership without obtaining the previous consent in writing of the Company. Apparently

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आदेश पत्रक

W.P.No.4750/2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	(Condt. 16.4.2001) - 3 -	

no such exercise was made. In other words in the present case the petitioners cannot claim that Clause-32 aforesaid has been complied with.

In the result in the facts and circumstances that I have narrated above, I am not inclined to entertain this petition. In other words in my view there is no scope for this Court to interfere with the impugned order in the present facts and circumstances. Consequently, this writ petition is rejected. I pass no orders as to costs.

Certified copy, today.

Sd/-
Chief Justice

Thakur.

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